

REMARKS

Reexamination and reconsideration of claims 1-5, 7-14, 18-21, 23-26, 28-35, 39-49, 52, 53, 56, 57, 59, and 60-62, and consideration of new claims 63-68, are respectfully requested. Claim 22 has been cancelled without prejudice.

Claims 6, 15-17, 27, 36-38, 50, 51, 54, 55, and 58 are withdrawn, but are suitable for rejoinder upon allowance of the pending generic claims. Additionally, the Primary Examiner's consideration of the IDS is acknowledged and appreciated.

Claim 1 was rejected under 35 U.S.C. sec. 112, second paragraph, as failing to set forth the subject matter Applicants regard as their invention. It is respectfully submitted that Fig. 1 of the present application was misinterpreted in the Office Action. Fig. 1 depicts two optional binder threads 17 that are wrapped about dry insert 14 for holding the same in position before tube 18 is applied thereover. Nonetheless, as shown in Fig. 1, dry insert 14 is adjacent to the interior surface of tube 18. For at least the reasons stated, withdrawal of the sec. 112, second paragraph, rejection of claim 1 is warranted and respectfully requested.

Claims 1-5, 7-14, 18-26, 28-35, 39-49, 52, 53, 56, 57, 59, and 60-62 were rejected under 35 U.S.C. sec. 103(a) applying U.S. Pat. No. 6,389,204 (the '204 patent) in view of U.S. Pat. Nos. 6,122,424, (the '424 patent), 5,838,863 (the '863 patent) and 6,377,738 (the '738 patent). For patents to be applicable under sec. 103(a), the combination of teachings must, *inter alia*, expressly or inherently, teach, disclose, or otherwise suggest each and every feature of the claimed invention. Additionally, motivation and suggestion to combine the teachings must be present.

It is respectfully submitted that the purported modification does not teach each and every feature of independent claims 1, 21, and 42. Moreover, the amendment of claims 21, and 42, or any

other claim, is not an admission that the art of record alone or in combination teaches, discloses, or otherwise suggests the features of the amended claims.

There is no evidence of record that the purported modification teaches each and every feature of independent claims 1, 21, and 42. First, the '204 patent teaches glass yarns having a coating system where the coating system has a percentage by weight of about 2 percent or less of the yarns. Second, the '424 patent is directed to a fiber optic cable with flame inhibiting components 20,30,40 employing relatively hard flame inhibiting agents and/or conventional water-swellaable particles. The skilled artisan would not have been motivated, nor taken a suggestion, to induce optical attenuation by placing relatively hard particles in contact or pressing against the optical fibers. Third, the '863 patent teaches "...a sealing process of an opening space inner a cable comprising mixing components (A) and (B) as described above and introducing the resulted mixture into said opening space under pressure, followed by curing to form a polyurethane resin, whereby sealing the opening space." See Col. 2, ll. 3-8 and 9-13 of the '863 patent. Finally, the '738 patent teaches a water-swellaable tape 32 disposed about buffer tube 12. See Col. 12, ll. 55-60 and Fig. 1 of the '738 patent.

Simply stated, the purported modification does not teach, disclose, or otherwise suggest an optical tube assembly having, *inter alia*, at least one dry insert having a first layer and a second layer, the first layer being a polyurethane foam and the second layer being a water-swellaable layer, wherein the dry insert is disposed within the tube adjacent to the interior surface of the tube and generally surrounds the at least one optical waveguide thereby coupling the at least optical waveguide with the interior surface of the tube. Consequently, the purported modification does not teach, disclose, or otherwise suggest each and every feature of claim 1.

Likewise, the purported modification does not teach, disclose, or otherwise suggest each and every feature of independent claims 21 and 42. For at least the reasons stated herein, a *prima facie* case of obviousness with respect to claims 1-5, 7-14, 18-21, 23-26, 28-35, 39-49, 52, 53, 56, 57, 59, and 60-62 is lacking. The withdrawal of the sec. 103(a) rejection of claims 1-5, 7-14, 18-21, 23-26, 28-35, 39-49, 52, 53, 56, 57, 59, and 60-62 is warranted and respectfully requested.

New claims 63-68 are also patentable over the art of record.

Applicants respectfully request rejoinder of claims 6, 15-17, 27, 36-38, 50, 51, 54, 55, and 58 under 37 CFR 1.141. Rejoinder is warranted and proper in this application since independent claims 1, 21, and 42 are generic to all species. Applicants will submit a supplemental reply amending withdrawn claims to correct dependencies when notified that rejoinder is proper.

Three-hundred dollars (\$300.00) is believed due in connection with this Reply for the addition of six dependent claims in excess of twenty. If any other fees are due in connection with this Reply, please charge any fees, or credit any overpayment, to Deposit Account Number 19-2167.

Allowance of all pending claims is believed to be warranted and is respectfully requested.

The Examiner is welcomed to telephone the undersigned to discuss the merits of this patent application.

Respectfully submitted,


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